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COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic reports of States parties due in 1998

Addendum

HAITI*

[29 April 1999]

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* This report contains the tenth, eleventh, twelfth and thirteenth periodic reports of Haiti, which were due on 18 January 1992, 18 January 1994, 18 January 1996 and 18 January 1998 respectively.

For the eighth and ninth periodic reports of Haiti submitted in a single document, and the summary records of meetings at which such reports were considered, see documents CERD/C/195/Add.1 and CERD/C/SR.879.

Introduction

1. Despite the difficult political situation in Haiti, the Government has endeavoured to meet its commitments by submitting its tenth periodic report to the Committee, under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination.

2. Since 1990, when the latest report (CERD/C/195/Add.1) was submitted, Haiti has experienced a series of social and political events, the highlights being as follows:

(a) On 16 December 1990, in free elections supervised by the international community, the people of Haiti chose Father Jean-Bertrand Aristide to be Head of State;

(b) On 29 September 1991, the President of the Republic was overthrown in a military coup d'état; he remained outside the country until October 1994, when he returned as Head of State partly as a result of the efforts of the international community, the Organization of American States and the United Nations in particular;

(c) In December 1995, in accordance with the requirements of the Constitution, new elections brought René García Préval to office as Head of State;

(d) In April 1997, a first institutional blockage occurred when regional and legislative by-elections were contested after the first round; the parliamentarians elected on this occasion were never to take their seats;

(e) In May 1997, the Prime Minister resigned;

(f) On 11 January 1999, the mandate of the parliamentarians expired although it had not been possible to organize elections to replace them;

(g) By decree of 18 December 1998, the President of the Republic appointed Jacques Edouard Alexis to the post of Prime Minister;

(h) By decree of 16 March 1999, the President of the Republic appointed a Provisional Electoral Council (CEP) to organize elections in order to fill the parliamentary seats;

(i) By decree of 24 March 1999, the Prime Minister announced the composition of his cabinet of ministers, thus enabling the governmental institutions to resume normal functioning.

I. GENERAL

A. General characteristics of Haiti

3. The Republic of Haiti is divided and subdivided into 9 geographical departments, 41 arrondissements, 133 communes, 55 quartiers, and 561 sections communales (article 9 of the Constitution). The largest town of each

department is the chief town of that department: Port-au-Prince, the capital of Haiti, for Ouest, Port-de-Paix (Nord-Ouest), Fort Liberté (Nord-Est), Gonaïves (Artibonite), Hinche (Centre), Cayes (Sud), Jacmel (Sud-Est) and Jérémie (Grande-Anse).

4. The monetary unit is the gourde, divided into centimes. The current rate is approximately 15 gourdes to the United States dollar. Haiti's two official languages are Creole and French.

5. The latest census in 1982 put the population of Haiti at 5,053,190 inhabitants, comprising 2,449,550 men and 2,603,640 women. Official projections put the population at 7,803,232 inhabitants for 1999, 65 per cent of whom are still living in rural areas. The average rate of population growth increased from 2.03 per cent for the period 1985-1990 to 2.08 per cent for 1995-2000; this increase is notably the consequence of Haiti's fertility rate which is still high: an average of 4.8 children per female in 1995.

6. The population is characterized by its very youthful structure. Nearly 40 per cent consists of children under 15 and 15 per cent of children under 5 years of age. This structure is the result of a combination of internal demographic factors: a relatively high birth rate, a moderate death rate and mass emigration during the active years. According to the projections prepared by the Haitian Institute of Statistics and Computing (IHSI) and the Latin American Demographic Centre (CELADE), the gross birth rate is estimated at 34.10 per cent and the gross death rate at 10.72 per cent for the period 1995-2000. For the same period, women of reproductive age (15-49 years of age) were estimated to account for approximately 45 per cent of the total population. The active population (15-64 years of age) accounts for more than half of the total population, or 56.20 per cent. Persons of 65 years of age and over, however, account for approximately 3.80 per cent of the total population.

B. General political structure

7. Haiti's general political structure is determined by the Constitution of March 1987, which in its preamble makes a particular reference to the 1948 Universal Declaration of Human Rights. Article 1 of the Constitution states: "Haiti is an indivisible, sovereign, independent, cooperatist, free, democratic and social republic."

8. The exercise of national sovereignty is delegated to three powers, each of which is independent of the other two (articles 59 and 60 of the Constitution). The Legislature is bicameral and comprises a Chamber of Deputies and a Senate. The powers of the Executive are shared between the President of the Republic and the Government; in addition, the Constitution establishes what amounts to a regional executive through the territorial groupings of the section communale, the commune and the department. According to article 173 of the Constitution, "the Judicial Power shall be vested in the Court of Cassation, the Courts of Appeal, the Courts of First Instance and the special courts, whose number, composition, organization, operation and jurisdiction are set by law."

C. Legal framework for the protection of human rights

9. Title III of the Haitian Constitution deals with the nature of citizenship (articles 16 to 18), fundamental rights (articles 19 to 51) and the duties of citizens (articles 52 and 53). According to article 16 of the Constitution, citizenship entails the combination of civil and political rights and article 17 adds that "All Haitians regardless of sex or marital status, who have attained eighteen (18) years of age, may exercise their political and civil rights if they meet the other conditions prescribed by the Constitution and by law". Article 18 further states that "Haitians shall be equal before the law, subject to the advantages conferred on native-born Haitians who have never renounced their nationality".

10. As regards the right of protection of aliens, article 54 of the Constitution states that "Aliens in the territory of the Republic shall enjoy the same protection accorded to Haitians under the law".

11. The Constitution further lists a series of rights which it guarantees, notably the right to life (articles 19 to 23), freedom of expression (articles 28 and 29-1), freedom of conscience (articles 30, 30-1 and -2), freedom of assembly and association (articles 31 to 31-3), the right to education (articles 32 to 34-1), freedom to work (articles 35 to 35-6), the right of ownership (articles 36 to 39), the right to information (article 40) and the right to security (articles 41 to 51).

12. Furthermore, according to article 276-2 of the Constitution, international treaties or agreements, after being approved and ratified in the manner prescribed by the Constitution, shall become part of national legislation and shall abrogate any laws which are incompatible with them. As a result, the rights covered by the various international human rights instruments ratified by Haiti are incorporated in Haitian law.

13. As regards the suspension of the above-mentioned guaranteed rights, the Constitution sets limits. For example, in article 278 it provides that "No place or part of the territory may be declared in a state of siege except in the event of civil war or invasion by a foreign force".

14. Where publicity is concerned, article 40 of the Constitution states: "the State has the obligation to publicize in the oral, written and televised press, in the Creole and French languages, all laws, orders, decrees, international agreements, treaties and conventions on everything concerning national life, except for information concerning national security". The texts of international instruments are published in Le Moniteur, which is the official bulletin of the Republic. The Government envisages a wider dissemination of these texts in the near future.

D. Haiti and the Convention

15. The Government of the Republic of Haiti reasserts once again that racial discrimination as defined in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, namely, "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or

impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life", does not exist in Haiti.

16. The Republic of Haiti has always shown a constant commitment to combating racial discrimination. This is exemplified in its struggle against colonization in favour of the recognition of an equal law for everyone. The 1805 Constitution, the first of the new State, read as follows: "Since all considerations of colour among the children of one and the same family whose father is the Head of State must of necessity cease, Haitians shall be generically designated as Blacks".

17. The present Constitution, adopted in 1987, does not refer explicitly to racial discrimination, revealing to what extent this question has ceased to be topical in Haiti. However, in referring in its preamble to the Universal Declaration of Human Rights of 1948, and in proclaiming as one of its fundamental goals the establishment of "a governmental regime based on fundamental freedoms and respect for human rights, social peace, economic equity, and the concerted efforts and participation of the whole population in major decisions concerning national life by effective decentralization", the Constitution of the Republic implicitly rules out discrimination of any kind among its citizens.

18. Moreover, in accordance with article 276-2 of the Constitution, the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination ratified by the State of Haiti on 19 December 1972 and of all other instruments duly ratified and part of national legislation may be invoked before the Haitian courts and administrative bodies. These provisions shall take precedence over all incompatible national legislation.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

19. According to the Constitution of Haiti, it devolves on all State organs and institutions to guarantee all fundamental rights to all citizens without distinction. Article 19 of the Constitution stipulates that: "The State has the strict obligation to guarantee the right to life, to health and to respect for the human person to all citizens without distinction, in conformity with the Universal Declaration of Human Rights".

20. All laws in Haiti are anti-discriminatory. Foreigners of any nationality benefit from equal protection of their rights. The only restrictions which may be applied to them relate to their status as nationals or non-nationals of the country, and such restrictions may in no sense be interpreted as acts of racial discrimination as defined by the Convention.

21. The Government of Haiti has not deemed it necessary to take specific steps to combat racial discrimination since such discrimination is not practised in Haiti. Although it is a fact that in the private sphere colour-linked prejudices are sometimes aired, their true origin lies in the social disparities of Haitian society. They do not in any case derive from the State. Furthermore, the Government makes constant efforts in the economic

and social spheres to overcome these disparities, the main effect of which is to prevent the emergence of genuine discrimination on grounds of colour. The Government campaign to improve the living and working conditions of child servants in Haiti is a clear illustration of the State's commitment in this matter. In this context and in order to support the Government's efforts, the United States has decided to grant $1.2 million to combat the employment of Haitian children as servants; this project will be coordinated by the International Labour Organization through its International Programme on the Elimination of Child Labour (IPEC).

22. In a decree dated 23 November 1990, the Government of the Republic of Haiti ratified the International Covenant on Civil and Political Rights which in article 2 requires States parties to undertake to ensure all the rights recognized in the Covenant without distinction of any kind, such as race or colour. The Government has also ratified the Convention on the Rights of the Child which condemns racial discrimination in terms similar to those of the Covenant. Lastly, in a decree of 3 April 1996, the Republic of Haiti ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, known as the Convention of Belém do Pará, adopted under the auspices of the Organization of American States on 9 June 1994. According to article 9 of this Convention, States parties are required to give special consideration to women subjected to violence by reason of their race or ethnic background.

Article 3

23. As mentioned in paragraph 11 of the ninth periodic report (CERD/C/195/Add.1), the Republic of Haiti has always energetically opposed racial segregation in all its forms and particularly apartheid, its most brutal manifestation.

24. The Republic of Haiti welcomes the abolition of the apartheid regime in South Africa and calls on the international community to pursue its efforts in support of the struggle of the South African people to establish a truly democratic society in their country based on equality of rights and respect for the dignity of all individuals without distinction of sex or colour or any other form of discrimination.

Article 4

25. The practice of racial discrimination as defined in the International Convention on the Elimination of All Forms of Racial Discrimination does not exist in Haiti, de jure or de facto. All provisions of the law in force are anti-discriminatory.

26. The decree of 4 February 1981, the purpose of which is to bring Haitian legislation into line with the provisions of the 1965 Convention, is still in force. It provides that "Any act of racial discrimination or behaviour which violates fundamental human rights on the ground of race, colour or membership of a particular ethnic group shall be deemed an offence punishable (...)" and that "absence of racial discrimination shall be an absolute rule of public order".

27. Although Haiti has no groups or organizations which propagate ideas based on racial discrimination, article 6 of the decree mentioned above provides for penalties applying to any person, group of persons or institutions which commit an act of discrimination or which support or encourage such an act.

Article 5

28. Since the latest report submitted to the Committee on the Elimination of Racial Discrimination (CERD/C/195/Add.1), because of the political troubles which have affected the country since 1991 Haiti's institutions have adopted a limited number of new laws. The legislation relating to racial discrimination, therefore, is still in force.

29. Haitian legislation overall, and particularly as regards the exercise of the rights set out in article 5 of the Convention, is anti-discriminatory; it guarantees every individual's right to equality before the law without distinction.

A. Right to equal treatment before the tribunals and all other organs administering justice

30. According to article 18 of the Constitution of Haiti, "Haitians shall be equal before the law, subject to the advantages conferred on native-born Haitians who have never renounced their nationality". As the seventh periodic report (CERD/C/147/Add.2, para. 28) points out, this restriction applies only to certain political rights. According to article 12.2 of the Constitution, therefore, naturalized Haitians must wait five years after becoming naturalized to be eligible or hold public office.

31. All Haitians without distinction have the right to equal treatment before the country's courts. Anyone who considers that his rights have been infringed or who wishes to enforce a judgement handed down in his favour may apply to the courts. Article 27 of the Constitution provides that "All breaches of the provisions concerning individual liberties constitute arbitrary acts. The injured persons may, without prior authorization, apply to the competent courts to prosecute the instigators and perpetrators of such arbitrary acts, irrespective of their individual status or their membership of any official body".

32. In order to investigate and elucidate the serious human rights violations which occurred during the period of the coup d'état i.e. from September 1991 to October 1994, a decree of 28 March 1995 established the National Commission of Truth and Justice (CNVJ). The final report of the Commission, which had collected nearly 8,000 complaints from victims of repression during the period of the de facto military Government, was handed over to former President Aristide on 5 February 1996.

33. Following the Commission's report and with a view to providing an urgent response to the victims of the military Government's violence, the Government of Haiti established an Office of Prosecution and Follow-up for Victims (BPSV) within the Ministry of Justice. Persuaded that the dissemination of the ...

Commission's report can contribute to preventing atrocities like those experienced by the people of Haiti, the BPSV has given the International Civilian Mission to Haiti (MICIVIH) the task of distributing it.

34. In order to ensure equal treatment for everyone before the courts, the Government of Haiti has undertaken, in cooperation with the United States, France, Canada, the European Union and MICIVIH, an in-depth reform of the judicial system so as to make it modern, independent, efficient, fair and accessible to all. The draft reform covers the magistracy, prisons, police, revision of texts and codes, jurisdictions, court officers, legal documentation, access of citizens to justice and registry offices.

35. The Government has taken specific measures in this regard, among which mention may be made of the inauguration on 3 July 1995 of the Magistrates College, whose mission is to train judges and government commissioners. In February 1997 the Preparatory Commission for the Reform of Justice (CPRDJ) was set up in implementation of a recommendation by the CNVJ. This Preparatory Commission has submitted a report to the Ministry of Justice describing the guarantee of respect for the protection of fundamental rights as one of the major objectives of the reform.

B. Right to security of the human person and protection by the State against any infringement of rights either by government officials or by individuals or institutions

36. Legislation currently in force guarantees the right of all individuals to security of their person, against any infringement of their rights either by government officials or by individuals or institutions. This right is guaranteed by article 19 of the Constitution which provides that "The State has the strict obligation to guarantee the right to life, to health and to respect for the human person to all citizens without distinction, in conformity with the Universal Declaration of Human Rights".

37. The legal framework for arrests is laid down in articles 24 to 26 of the Constitution. According to these provisions, a warrant is mandatory (article 24), moral pressure and physical constraint are prohibited during questioning (article 25), a suspect must be questioned in the presence of his lawyer or a witness of his choice (article 25-1) and the time spent in police custody is set at 48 hours (article 26), while article 27-1 establishes the principle of the responsibility of State officials and employees for acts which constitute a breach of rights.

38. In its desire to ensure the right to security of person, when the return to constitutional order took place in 1994, the Government demobilized the Army which in the past had been responsible for many human rights violations.

39. In 1995 the Haitian National Police (PNH) was set up with the assistance of the international community. In order to ensure the improved operation of the new police force and to put an end to the culture of impunity which had prevailed when the Army was in power, a monitoring and investigating body was set up within the PHNG, the Office of the Inspector-General of the Haitian National Police (IGPNH), with the functions of conducting administrative

investigations, inspecting and monitoring units of the PNH, and counselling government authorities and in particular the Minister of Justice and the Director-General concerning measures to be taken to ensure the evolution of the PNH within a context of respect for principles. During the period from November 1995 to December 1997, 2,278 cases were referred to the IGPNH.

C. Political rights

40. The legislation of Haiti is anti-discriminatory in respect of political rights. All Haitians who have reached their majority may, without discrimination, exercise their right to take part in elections and the right to take part in public affairs and the Government and to hold public office in the conditions prescribed by the law (article 17 of the Constitution).

41. As regards the exercise of the right to vote, the Constitution provides in article 91 for the creation of a permanent electoral council composed of nine members with responsibility for organizing in complete independence all elections throughout the territory of the Republic. In view of the difficulties mentioned in the first part of this report, the permanent electoral council has not yet come into existence and all elections to date have been organized by a Temporary Council. In order to fill the gap in Parliament which has existed since 11 January 1999, a new nine-member Temporary Electoral Council was established by presidential decree on 16 March 1999. The new Council is responsible for organizing elections as soon as possible to fill the Senate and reconstitute the Chamber of Deputies, the governing councils of the sections communales, the municipal councils, the assemblies of the sections communales, the municipal and departmental assemblies, the departmental councils and the interdepartmental council.

D. Other civil rights

1. Right to freedom of movement and residence within the borders of the State

42. Every Haitian citizen has the right to freedom of movement and freedom to establish his residence in the place of his choice. Provided that he conforms to national laws every citizen may exercise this right without restriction.

2. Right to leave any country, including one's own, and to return to one's country

43. As stated in paragraph 26 of the ninth periodic report (CERD/C/195/Add.1), this right is recognized in the Haitian Constitution. Article 41-1 of the 1987 Constitution provides that no Haitian needs an exit or an entry visa. Moreover, the previous article specifies that no one of Haitian nationality may be deported or forced to leave the national territory for any reason whatsoever.

44. As for aliens, the conditions under which they may be admitted to or remain in the country are established by law as article 53 of the Constitution specifies. In the majority of cases, their entry into the country is contingent on their first obtaining a visa. However, if they interfere in

national political life or in any other case determined by law they may be expelled from the territory of the Republic in accordance with article 56 of the Constitution.

3. Right to nationality

45. This right is recognized and protected by the State. The ninth periodic report (CERD/C/195/Add.1, paragraphs 27 to 29) sets out the conditions for acquiring and losing nationality as defined in the Constitution and the decree of 6 November 1984.

46. Under the terms of article 1 of this decree, Haitian nationality is acquired by birth or naturalization or by special legal disposition. According to article 26 of the decree, Haitian nationality is lost in the following cases:

(a) By naturalization in a foreign country;

(b) By abandonment of the homeland in time of imminent danger;

(c) In the event of a conflict of nationality, by an evident preference for, or active exercise of, a foreign nationality;

(d) By the act of bearing arms, or encouraging others to bear arms, against the Republic;

(e) By rendering any services to, or treating with, the enemies of the Republic;

(f) By continued residence, in the case of a naturalized Haitian, for not less than three years outside the territory of Haiti, without authorization being duly granted.

47. As regards naturalization, article 12-1 of the Constitution establishes a period of five years of residence in the territory of Haiti for a foreigner to obtain Haitian nationality. Dual Haitian and foreign nationality is in no case permitted (article 15 of the Constitution).

4. Right to marriage and choice of spouse

48. The right to marriage and choice of spouse is not subject to any discrimination in Haitian law. It suffices that the legal conditions should be met, particularly as regards the required age, for the consent given to be valid. The State has a constitutional obligation to protect the family, the fundamental unit of society. It owes equal protection to all families whether or not they are constituted by the ties of matrimony (articles 259 and 260 of the Constitution).

5. Right of any individual, alone or in association, to own property

49. According to article 36 of the Constitution, "Private property shall be recognized and guaranteed. The law shall determine the modalities for its acquisition, use and limits". As paragraph 31 of the ninth periodic report

specifies, articles 572 and 573 of the Civil Code organize accession to property. Under these provisions, ownership of property is acquired and transmitted by inheritance, by bequest among living persons or testamentary heirs, and under bond.

50. The exercise of this right is limited only by public provisions prescribed by law. For example, as regards expropriation on grounds of public utility the conditions are set out in article 36-1 of the Constitution. "Expropriation may be carried out on grounds of public utility, in return for payment or a deposit ordered by a court to a duly authorized person, of fair and p[illegible] or compensation set by an expert. If the initial project is abandoned, the expropriation shall be annulled and as the real property may not give rise to any speculation, it has to be restored to its original owner (...)".

51. As regards the right to own real estate, restrictions exist in the case of aliens. Their right is restricted to property required for their residential or entrepreneurial needs. The Constitution also specifies that, except in the case of agrarian reform, no one may be deprived of his lawful right of ownership except where a decision has been handed down by a court of general jurisdiction as a final sovereign judgement. Nationalization and confiscation of movable and immovable property for political reasons are prohibited.

6. Right to inherit

52. The right to inherit, provided that the requirements of the Civil Code are complied with, is guaranteed to everyone without any distinction, exclusion, restriction or preference on grounds of race or colour.

7. Right to freedom of conscience and religion

53. Religious institutions in Haiti are grouped under three major denominations: Catholicism, Reformed forms of worship and Voodoo. The freedom of conscience and religion is one of the fundamental rights recognized by the Constitution (article 30). All religions and all forms of worship are free, provided that they do not disturb public order. No one may be obliged to belong to an association or to follow a religious teaching contrary to his convictions.

54. One consequence of this very broad freedom, as page 7 of the ninth periodic report states, is the proliferation of religious movements.

8. Right to freedom of opinion and expression

55. Freedom of opinion and expression is an acquired right of the people of Haiti. It is protected and guaranteed by the Constitution, article 28 of which provides: "Every Haitian shall have the right to express his opinions freely on any subject through the medium of his choice". This right is exercised by different means; radio broadcasts which enable the public to have a say are particularly appreciated in Haiti. As for aliens, article 54 of the Constitution specifies that they benefit from the same protection as is accorded to Haitians.

56. As regards freedom of the press, the Constitution gives particular attention to journalists. Article 28-1 provides: "Journalists shall practise their profession freely within the framework of the law. Such exercise may not be subjected to any authorization or censure, except in the event of war".

57. Full exercise of the right to freedom of opinion and expression was noted by the United Nations independent expert appointed to study the situation of human rights in Haiti in his report to the Commission on Human Rights of 24 January 1996 (E/CN.4/1996/94).

9. Right to freedom of peaceful assembly and association

58. This is a constitutionally guaranteed right in Haiti and is not subject to any exception. According to article 31 of the Constitution, "the freedom of unarmed association and assembly for political, economic, social, cultural or any other peaceful purposes shall be guaranteed".

E. Economic, social and cultural rights

59. Economic, social and cultural rights are recognized by Haitian legislation.

1. Right to work

60. Articles 35, 35-1 and 35-2 of the Constitution provide the legal framework of the right to work in Haiti. They state that free choice of employment is guaranteed along with the right to a fair wage, to rest, to paid annual leave and to a bonus. The State also has the obligation to guarantee equal working conditions and wages without distinction on grounds of sex, beliefs, opinions or marital status.

61. As mentioned in paragraphs 39 to 52 of the ninth periodic report (CERD/C/195/Add.1), the Labour Code organizes relations between employers and workers. Its provisions include in particular:

(a) Requirement of advance notice if one of the contracting parties wishes to terminate the contract of employment (articles 44 to 46);

(b) Award of damages to the injured party for unlawful breach of the contract of employment (article 49);

(c) Possibility of referring any dispute concerning a wage claim through the conciliation service of the Department of Labour to the Ministry of Social Affairs within six months of the breach of contract.

The right of workers to strike is also recognized.

2. Right to form and join trade unions

62. Trade union freedom is guaranteed under article 35-3 of the Constitution. It applies without distinction to employees in the public and private sectors, who are thus able to defend their employment interests.

63. According to the Constitution (article 35-4), "Unions are essentially non-political, non-profit-making and non-denominational. No one may be forced to join a union".

3. Right to housing

64. Despite the limited resources available to the Haitian Government, substantial efforts have been made to improve housing conditions in the country. Much remains to be done, however, particularly in respect of street children and slums.

4. Right to public health, medical care, social security and social services

65. As regards public health services, Haiti is not yet in a position to guarantee all Haitians access to medical care. However, the Government has made a significant effort. The construction of health centres continues apace both in the towns and in the countryside to allow the underprivileged classes of the population to have access to minimum medical care.

66. As for the right to social security and social services, the Haitian State guarantees all workers social protection. Employers' contributions to social security are required for all employees without discrimination. Three main institutions are involved in this area: the Employment, Sickness and Maternity Accident Insurance (OFATMA), the National Old-Age Insurance Office (ONA) and the Social Welfare and Research Institute (IBESR). All three institutions come under the Ministry of Social Affairs.

5. and 6. Right to education and training and the right to participation in cultural activities, under equal conditions

67. Articles 32 to 34-1 of the Constitution guarantee the right to education without discrimination and give the State the task of supervising the physical, intellectual, moral, vocational, social and civic training of the population. Although Haiti has not yet been able, because of its limited resources, to meet its constitutional obligation to make schooling available to all free of charge (article 32-1), the Ministry of National Education has undertaken major work of renovation and modernization of existing educational establishments and the building of new schools.

68. In addition, following a lengthy process of consultation and concerted effort initiated in 1993, in partnership with UNESCO, USAID and UNICEF, a National Education and Vocational Training Plan has defined the education priorities of the Haitian State for the next 10 years. In the context of this new policy, the Ministry of Education has issued the following guidelines for the new education system; it must: (a) constitute a road to democracy; (b) encourage civic sentiments and a sense of responsibility; (c) respect national culture; and (d) lead to development.

69. The right to take part in cultural activities is not subject to any discrimination within the meaning of article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

F. Right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks

70. There are no exceptions to the right of access to all places intended for use by the general public.

Article 6

71. As stated throughout this report, racial discrimination as defined by article 1 of the Convention does not exist in Haiti.

72. However, anyone who believes that he has suffered moral or material injury from such discrimination has the right to bring his complaint before the courts to obtain satisfaction and fair and adequate redress. He can also apply to the Office for the Protection of Citizens, whose goal is to protect individuals from all forms of abuse by the Government.

73. Anyone who brings an action of this nature before the courts may invoke both article 1 of the decree of 4 February 1981, which classifies any act of racial discrimination as an offence, and the relevant provisions of the Civil Code. In the chapter on intentional or unintentional offences, article 1168 provides: "Any human act which has caused injury to another person requires the person who caused it to provide redress" and article 1169 adds that: "Each individual is responsible for the injury he has caused, not only through his acts but also through negligence or imprudence". Lastly, he may invoke directly the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination which, in accordance with article 276-2 of the Haitian Constitution, takes precedence over national laws incompatible with its provisions.

Article 7

74. The Government of Haiti is aware of the vital role of education in the development and promotion of human rights and is making strenuous efforts to improve the country's education system. This system is organized round the National Education and Vocational Training Plan, the key aspects of which were presented in paragraph 68 of this report, and is intended to be a basic instrument for the economic and social development of the nation.

75. It should also be noted that as part of the educational programmes drawn up by the Ministry of National Education, classes in civic instruction are intended essentially to increase familiarity with human rights problems and encourage understanding, tolerance and friendship among nations and racial and ethnic groups.